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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,712	03/19/2004	Jean-Christophe Bonnain	D-7888	5642

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Smyrna, GA 30080

EXAMINER

JARRETT, RYAN A

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,712

Applicant(s)

BONNAIN ET AL.

Examiner

Ryan A. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/16/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United Kingdom on 9/20/01. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 28-31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raises a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment, or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

The claims are directed to a method that does not require computer-implementation or use of technology to accomplish. The claims allow for the involvement of subjective human decision and therefore do not necessarily produce repeatable, concrete results. Additionally, claim 31 appears to be merely directed to software not tangibly embodied on a computer readable medium.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 23 recites the limitation "the packaging machine" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-19, 24, 28, 31-35, and 37-38 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Bozich et al. U.S. Patent No. 6,748,285 Bozich et al. discloses a client-server arrangement configured to design a package for at least one object and package the at least one object in the package (e.g., Figs. 1-9, col. 3 lines 35-49, col. 3 line 66 – col. 4 line 15, col. 4 lines 39-49, col. 5 lines 28-55, col. 6 lines 4-14, col. 6 lines 55-56, col. 7 line 28 – col. 8 line 37, col. 9 lines 8-27).

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8. Claims 1-2, 7, 10-12, 17, 19, 21-22, 24, 26-35, and 37-38 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Gerber U.S. Patent No. 6,689,035. Gerber discloses a client-server arrangement configured to design a package for at least one object and package the at least one object in the package, including generating control data for a cutting machine capable of cutting a package blank and generating control data for controlling a printing device being arranged to apply user-defined printed matter to material for use in forming a package blank (e.g., col. 5 lines 45-62, col. 6 lines 36-53, col. 8 line 5 – col. 9 line 33).

9. Claim 36 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by GB 2311759. This reference discloses a control signal adapted to actuate motors of a packaging machine so as to package an object (e.g., pages 4-6).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 20, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber (or Bozich et al.) as applied to claims 11 and 24 above, and further in view of GB 2311759 (provided by Applicant). Gerber (or Bozich et al.) does not appear to explicitly disclose generating a control signal for a packaging machine

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capable of actually packaging the product. Gerber (and Bozich et al.) discloses generating signals for controlling the manufacturing of the actual designed package itself, but does not disclose generating control signals for a packaging machine that actually packages the objects in the designed package.

However, GB 2311759 discloses generating a control signal for a packaging machine capable of controlling packaging machine motors for packaging a product. The control signals are based on user defined input parameters related to the package and/or product design (e.g., pages 4-6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gerber (or Bozich et al.) with GB 2311759 since GB 2311759 teaches that user control inputs relating to package/product design features can be used to control a packaging machine for packaging the product. GB 2311759 teaches that such a setup allows for changes to be made to the package design very easily by one-touch operation in accordance with a preset program (page 2).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan A. Jarrett whose telephone number is (571) 272-3742. The examiner can normally be reached on 10:00-6:30 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ryan A. Jarrett
Examiner
Art Unit 2125

3/2/05

A handwritten signature in black ink, appearing to read "L. P. Picard". The signature is written in a cursive, flowing style with a large loop at the end.

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100